

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ALEXIS MARIE VERA, Minor.

DEPARTMENT OF HUMAN SERVICES, f/k/a
FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

MIRANDA SUSAN MIRELES, f/k/a MIRANDA
SUSAN VERA,

Respondent-Appellant.

In the Matter of EMILIO SANTIAGO MIRELES
and ANGELINA MARIANA MIRELES, Minors.

DEPARTMENT OF HUMAN SERVICES, f/k/a
FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JUAN MANUEL MIRELES,

Respondent-Appellant.

In the Matter of EMILIO SANTIAGO MIRELES
and ANGELINA MARIANA MIRELES, Minors.

DEPARTMENT OF HUMAN SERVICES, f/k/a
FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

UNPUBLISHED
April 18, 2006

No. 266843
Saginaw Circuit Court
Family Division
LC No. 01-026996-NA

No. 266844
Saginaw Circuit Court
Family Division
LC No. 01-027228-NA

MIRANDA SUSAN MIRELES, f/k/a MIRANDA
SUSAN VERA,

No. 266845
Saginaw Circuit Court
Family Division
LC No. 01-027228-NA

Respondent-Appellant.

Before: Murphy, P.J., and O'Connell and Murray, JJ.

PER CURIAM.

In Docket Nos. 266843 and 266845, respondent Miranda Mireles appeals as of right from the trial court orders terminating her parental rights to her three minor children under MCL 712A.19b(3)(c)(i) and (g). In Docket No. 266844, respondent Juan Mireles appeals as of right from the trial court order terminating his parental rights to his two minor children under the same subsections. The appeals have been consolidated for review. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

A petition was initially filed in March 2001, to take temporary custody of Alexis, who was nearly one year old. The petition alleged domestic violence between respondents and physical abuse by respondent mother, who had struck Alexis with a remote control, leaving an abrasion on her head, and slapped her, leaving a red handprint. An order of disposition was entered in May 2001. A parent agency agreement (PAA) required improvements in emotional stability, parenting skills, and domestic relations. On July 5, 2001, Emilio was born. A petition was filed and Emilio was removed, and an order of disposition entered in September 2001. In October 2001, Alexis was returned. Respondent mother pleaded guilty to second-degree child abuse and was sentenced to five years' probation. Emilio was returned in July 2002. Services including the Family Reunification Program were in place in the home. Court jurisdiction was terminated in October 2002.

Temporary custody petitions were filed in March 2003, alleging that respondents' lack of supervision led to Emilio receiving bite marks, abrasions from a defect on his bed, and injuries from falling out of his upper bunk. The children were placed with respondents and an order of disposition entered in June 2003. A new PAA required domestic violence counseling and parenting classes for both respondents and anger management for respondent father. Respondents did not complete the services. Alexis was evaluated for sexual abuse, having acted out sexually and made sexually suggestive statements.

New petitions and motions to remove the children were filed in October 2003. Injuries to Emilio caused by Alexis and an injury to Alexis caused by respondent father throwing a slipper were alleged. In an order of disposition entered in November 2003, the court found respondents unable to control the children. However, extended weekend visits were allowed. In December 2003, Alexis made statements suggestive of sexual abuse, including that Daddy had touched her "caca" and she had touched his. Alexis was acting out sexually and having other behavior problems. After visitations, she would have temper tantrums and say that respondent mother told her to say that Daddy did not touch her.

Angelina was born on June 3, 2004, a petition was filed, and Angelina was removed at the hospital. At an adjudicative hearing in July 2004, the court found that Alexis and Emilio had had serious injuries, that respondents were violent and threatening to the children and each other, and that there was a substantial lack of progress and problems with hygiene, medical care, and the physical condition and sanitation of the home. An order of disposition was entered in Angelina's case in September 2004. Because Alexis continued to make additional statements regarding sexual abuse by respondent father, respondents' visitations with Alexis were suspended. In January 2005, a permanency planning hearing (PPH) was held, and the goal was changed to termination. The court directed the agency to initiate termination proceedings. Following a hearing, respondents' parental rights were terminated in November 2005.

Initially, we reject respondent mother's argument that the trial court showed bias and prejudice by ordering petitioner to file a permanent custody petition. This argument was not raised below and is thus not preserved for appellate review, and is untimely under MCR 2.003(C)(1). Further, the argument clearly lacks merit. The child protection statutes contain strict time limits, and MCL 712A.19a(6) requires the trial court to order initiation of termination proceedings upon determining at the PPH that the children should not be returned home. Therefore, the record does not support respondent mother's assertion of bias or partiality. *Cain v Department of Corrections*, 451 Mich 470, 495; 548 NW2d 210 (1996).

The trial court did not clearly err in finding that clear and convincing evidence supported the termination of respondents' parental rights under MCL 712A.19b(3)(c)(i) and (g). *In re Trejo*, 462 Mich 341, 351; 612 NW2d 407 (2000); MCR 3.977(J). While the court found insufficient evidence of sexual abuse by respondent father, the court did not clearly err in considering this evidence. Alexis's statements were consistent over time and repeated to several individuals. As the lower court found, it was clear that something serious did happen to Alexis in respondents' care, so there was inadequate supervision and a failure to protect Alexis. Further, injuries repeatedly happened to both Alexis and Emilio when in respondents' care, and respondents had recurring problems with hygiene, medical care, and their home's sanitation and overall condition. The evidence suggested several instances of lost heat and broken pipes in the home. The evidence supported the conclusion that respondents failed to provide proper care and custody and would be unable to do so within a reasonable time. MCL 712A.19b(3)(g). Respondents participated in services to some extent, but did not complete services or benefit sufficiently so that the children could be safely returned. *In re Gazella*, 264 Mich App 668, 676-677; 692 NW2d 708 (2005). The conditions of adjudication continued and were not likely to change within a reasonable time. MCL 712A.19b(3)(c)(i).

The record also supports the trial court's conclusion that termination of respondents' parental rights to the minor children was not clearly contrary to the children's best interests. MCL 712A.19b(5). The children need a permanent, safe, stable home, which neither respondent can provide. We have examined the record and find no clear error in the trial court's decision terminating respondents' parental rights.

Affirmed.

/s/ William B. Murphy
/s/ Peter D. O'Connell
/s/ Christopher M. Murray